



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA AN No. 2495 (1945)
March 12, 1992

SUBJECT: Relationship Between FmHA Emergency Loans and Agricultural Stabilization and Conservation Service (ASCS) Disaster Payments

TO: State Directors, District Directors, and County Supervisors

ATTN: Farmer Programs

PURPOSE/INTENDED OUTCOME:

This Administrative Notice (AN) is being issued to clarify the handling of ASCS disaster payments to be received in 1992 for crop losses which were incurred in previous years. The intended outcome is to assure that applicants and borrowers are treated fairly and consistently.

COMPARISON WITH PREVIOUS AN:

This AN supplements FmHA AN No. 2454(1945) dated January 31, 1992.

IMPLEMENTATION RESPONSIBILITIES:

The disaster program administered by ASCS allows eligible farmers to receive disaster payments based upon losses which occurred in 1990. Several questions related to this issue have been raised. The questions and their answers are as follows:

Question 1: If an FmHA borrower received an EM loan based upon a 1990 disaster loss and also receives a disaster payment in 1992 based upon the same loss, should an assignment be taken on the payment and the proceeds applied to the EM loan?

Answer: Neither an assignment nor a joint check is required in such cases, unless the borrower has an application pending for additional assistance, and the payment is needed for a feasible plan. In cases where a new loan request is being processed, follow FmHA AN 2454(1945) dated January 31, 1992.

Question 2: In cases described in Question 1, if the borrower's losses would have been less than 30 percent had the payment been considered at the time the application was processed, should the loan be considered improper and serviced in accordance with FmHA Instruction 1951-L?

EXPIRATION DATE: December 31, 1992

FILING INSTRUCTIONS:
Preceding FmHA
Instruction 1945-D



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Answer: No. Neither FmHA nor the borrower had any indication that disaster payments might be available. The loan was authorized when it was approved, and that is the only requirement.

Question 3: If a farmer receives a disaster payment based upon 1990 losses, and applies for an EM loan based upon 1991 losses, is the disaster payment included as compensation in calculating losses for EM eligibility?

Answer: No. FmHA Instruction 1945-D, Section 1945.163(a)(2)(ix) indicates that the other assistance considered in the calculations must be attributed to the disaster for which the loss is being calculated.

Question 4: A borrower received an EM loan based upon 1991 losses. The loan was approved before the disaster program was announced. The disaster payment will also be based on the 1991 loss. Should the eligibility be recalculated in accordance with FmHA AN 2454(1945)?

Answer: No. Once a loan is approved, the approval generally cannot be rescinded. The approval was based on all existing information available at that time. Neither FmHA nor the applicant could anticipate the disaster program. The assistance is authorized. No assignment or joint check will be required unless the borrower applies for additional assistance, and then the requirements of FmHA AN 2454(1945) apply.

Question 5: ASCS will not issue joint checks as set forth in the Memorandum of Understanding (MOU) between FmHA and ASCS. What do we do about this when we do not get joint checks?

Answer: ASCS has advised that they cannot legally comply with the MOU. FmHA and ASCS are negotiating a new MOU to replace the existing one. FmHA will only receive an assignment if the borrower signed a Form CCC-36. FmHA will only receive a joint check if the borrower signed a Form CCC-37. It is essential to require execution of the appropriate form as a loan condition, if an assignment or joint check is required. Refer to FmHA AN 2454(1945) to determine whether an assignment or joint check is necessary.

Questions regarding this AN should be directed to Farmer Programs Loan Making Division at FTS 720-1638 or (202) 720-1638.



LA VERNE AUSMAN
Administrator

Sent by Time Delay Option to States at 8:00 am on 3/16/92; to Districts at 10:00 am; and to Counties at 12:00pm on 3/16/92 by GSS.
on 3/16/92